

offices around the Hill is that negotiations are taking place that will get us to a place where we at least have a template, a piece of legislation that can be embraced in the beginning in a bipartisan way, and then what I hope will happen—I know my friend from Delaware will be highly engaged in this, because he has been focused on this for a long time—what I hope happens, after we get the base template together, is that we have a vigorous debate on the floor about where we need to go from there. There are other pieces—I would consider them to be central—but I am OK with legislation coming to the floor where we have a balance between resolution, derivatives, and consumer protection. Then let's go from there and have the kind of debate I think our country would love to see us have in public, focused not on rhetoric—because we have plenty of substance on this issue—but on substance, and let's do something that will stand the test of time. I think we are going to do that. As a matter of fact—and I know my time is up—I think this bill has the opportunity in the next few days, and once we begin debate on the floor, which I hope will happen in a bipartisan way—I think this bill is potentially the beginning of us being able to function in an appropriate way in this body. That is what I hope happens.

That is why for weeks and months I have been saying that I think at the end of the day we are going to end up with a bipartisan bill. I hope it has some important elements in it, such as the ones I mentioned, that will allow me to support it. Whether that happens—and I hope it happens—or not, I hope we have a vigorous debate and end up with a good product.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF CHRISTOPHER SCHROEDER TO BE AN ASSISTANT ATTORNEY GENERAL

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Christopher Schroeder, of North Carolina, to be an Assistant Attorney General.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. Mr. President, I rise today to express my support for Chris Schroeder's nomination to be Assistant Attorney General for the Office of Legal Policy in the Department of Justice.

Before I go any further, I want to state for the record that Chris Schroe-

der is a long-time colleague and great friend. Not only did we work together for Senator BIDEN, but for the past 20 years we have co-taught a course on the Congress at Duke Law School—a course that for many of those years was cosponsored by the law school and the Stanford School of Public Policy.

Chris is currently the Charles S. Murphy Professor of Law and Professor of Public Policy Studies at Duke, as well as director of Duke's Program in Public Law.

Chris was born in Springfield, OH, received his B.A. from Princeton University, a master of Divinity from Yale, and his J.D. from the University of California at Berkeley, where he was editor in chief of the California Law Review.

He is married to Katherine T. Bartlett, former dean and current A. Kenneth Pye Professor at Duke Law School. Chris and Kate have three wonderful children.

During his legal career, Chris has excelled in private practice, government service, and academics.

Following his graduation from law school, Chris practiced law in San Francisco, gaining valuable experience in a wide variety of both State and Federal practice.

In 1979, he became a law professor at Duke, where he has been a respected and prolific scholar, an invaluable administrator, and a committed and effective teacher.

He has authored and edited several books, including a leading casebook on environmental law, "Environmental Regulation: Law, Science and Policy," now in its sixth edition.

He also has published countless articles in law reviews and journals, on an impressive range of topics, including environmental law, federalism, Federal courts, executive and legislative power, and national security.

Chris's teaching is just as broad and deep as his scholarship. Over the course of his career, he has taught environmental law, constitutional law, comparative constitutional law, administrative law, civil liberties and national security, Federal policymaking, the Congress, government, business and public policy, an environmental litigation clinic, toxic substances regulation, land use planning, water law, philosophy of environmental protection, property, and civil procedure.

Chris is a true renaissance man. I can personally attest to the quality of Chris's teaching, having co-taught with him for 20 years. Here in the Senate, we have many former students doing excellent staff work on both sides of the aisle.

Chris has also contributed his legal and policy expertise to practical problems affecting the health and safety of the community. He served on National Academy of Science and Institute of Medicine committees to evaluate the use of human intentional dosage studies by the EPA and the adequacy of the U.S. drug safety system.

Duke has also recognized Chris's considerable administrative skills. In addition to serving as co-chair of the Center for the Study of the Congress, with me, and the director of Program in Public Law, Chris has chaired the school's appointments committee, served on the dean's selection committee, and served as a member of the university's judicial board.

In the 1990s, while at Duke, he took several leaves of absence for positions in public service. As a result, he has considerable experience in government, which will stand him in good stead at the Office of Legal Policy.

He has served in several capacities in the Senate, including as special nominations counsel and then he was the No. 1 staffer as chief counsel for the Judiciary Committee.

He also held numerous positions in the Department of Justice, including counselor to the Assistant Attorney General of the Office of Legal Counsel, Deputy Assistant Attorney General, and acting Assistant Attorney General.

In short, Chris Schroeder has the experience, the intellect, and the judgment necessary to be a superb leader of the Office of Legal Policy.

Just as important, he has the character and integrity to help the Attorney General continue to restore the public faith in the Department of Justice.

The Office of Legal Policy, OLP, has a wide range of important responsibilities within the Department of Justice. Let me read from the description on the DOJ Web site:

The major functions of the Office of Legal Policy are to:

- Develop strategies and programs to implement legislative, programmatic and policy initiatives;

- serve as a liaison to the Executive Office of the President and other agencies on policy matters;

- conduct policy reviews of legislation and other proposals and support and coordinate Departmental efforts to advance the Administration's legislative and policy agenda;

- assure policy consistency and coordination of Departmental initiatives, briefing materials and policy statements;

- provide support and policy expertise in conjunction with other components to implement effectively major departmental and administration initiatives in the criminal and civil justice areas; assist the President and the Attorney General in filling all Article III and certain Article I judicial vacancies; coordinate regulatory development and the review of all proposed and final rules developed by all Department components; To serve as liaison to the Office of Management and Budget and other agencies on regulatory matters; Track and coordinate departmental implementation of statutory responsibilities and reporting requirements.

In sum, OLP is responsible for developing the high-priority policy initiatives of the Department of Justice. The Assistant Attorney General for OLP serves as the primary policy adviser to the Attorney General. OLP is the place within the Department where critical long-term planning gets done. OLP also handles special projects that implicate the interests of multiple Department components and coordinates the regulatory development and review of all

proposed and final rules developed by the Department. Finally, OLP advises and assists the President and the Attorney General in the selection and confirmation of Federal judges.

Chris's extraordinary career and exemplary character render him uniquely qualified to lead OLP. As we saw from his confirmation hearings in the Judiciary Committee back in June, Chris has excellent credentials and broad experience in law and government. He fully understands the special role at the Department of Justice and is deeply committed to the rule of law.

He has broad support from lawyers of all political and judicial philosophies. Just as an example, A.B. Culvahouse, former White House Counsel to President Reagan, gave Chris a ringing endorsement, describing him as having "the requisite maturity, experience, and confidence to work constructively across institutional, interest group, and party lines to advance the public interest."

Ken Starr was similarly enthusiastic in his endorsement, saying:

Chris has a particularly keen and nuanced sense of what the founding generation was seeking brilliantly to achieve: balanced government. From both practical experience and engaged scholarship, he understands deeply the appropriate role of the coordinate branches.

Before I conclude, I would like to give my colleagues a little better sense of Chris Schroeder outside of his professional life because I think his model character is something we should all bear in mind as we consider his nomination.

Chris has deep roots in the Durham, NC, community. He and his wife Kate have been members of the Pilgrim United Church of Christ for 30 years. This is the church in which Kate and Chris have raised their three children, and it has been an important part of their family life. Chris has been a member of every elected board or committee of his church. He has been the chairman of the fellowship committee several times—a job he cherishes because of the simple pleasures that come from providing good meals and hospitality at church events of every description. Chris has also taught Sunday school for over 20 years at Pilgrim, most often a Bible study class.

Chris has also been a member of the board of directors of the Meals on Wheels program in Durham which supplies lunches to elderly and shut-in members of the Durham community. Besides having served in a leadership position for Meals on Wheels, Chris and colleagues from the Duke University faculty drive one of the Meals on Wheels routes every Friday. They have been doing this for more than 20 years.

Chris and his children have also been active in the CROP Walk, an annual event in Durham and many other cities around the country that raises funds for local as well as international food programs. Chris is proud of the fact that Pilgrim United Church of Christ is

regularly among the leaders among churches its size in raising funds in the CROP Walk.

In selecting Chris Schroeder, the President has chosen wisely. Based on our long association, I know him to have a piercing intellect, impeccable judgment, and unparalleled integrity. I am proud to call him my friend. I urge my colleagues to confirm him without delay.

Mr. President, I ask unanimous consent that any time in a quorum call during the debate on the Schroeder nomination be charged equally to both sides.

The PRESIDING OFFICER (Mr. BURRIS). Without objection, it is so ordered.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that 5 minutes be set aside for the chairman during the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURRIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, it is so ordered.

Mr. BURRIS. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCIAL REGULATORY REFORM

Mr. BURRIS. Mr. President, in early 1933, just after Franklin Roosevelt was sworn in as President, the Great Depression was at its worst. The American economy had been shaken to its core. Financial institutions had closed, people's life savings had evaporated, and no one knew where to turn. That is when the unthinkable happened: Much of the American commercial banking system collapsed.

President Roosevelt and his colleagues in the House and Senate sprang into action. Congressman Henry Steagall and Senator Carter Glass, both Democrats, worked with the President to write sweeping reform legislation. They set out to get the economy back on the road to recovery. The resulting law—known as the Glass-Steagall Act of 1934—helped to lay the foundation for sensible bank regulation in this country. It would come to define America's financial landscape in the decades that followed the Depression.

Mr. President, it is in this spirit that I ask my colleagues to join me today in supporting major financial reform and making sure that the Volcker rule is included in our financial legislation. If we pass the bill that has been introduced by Senator DODD, we can help prevent another economic crisis and reinstate some of the basic protections included in Glass-Steagall.

Almost 80 years ago, this legislation established the FDIC, which still insures bank deposits—and it drew a sharp distinction between commercial banks and investment banks. In the wake of economic collapse, Congress recognized that these dueling roles often came with massive conflicts of interest. In some cases, this resulted in risky behavior. In others, fraud.

So Glass and Steagall designed their bill to set up a barrier between commercial banks and investment banks. The law prevented these two activities from mixing and kept financial professionals honest and accountable. For much of the next half century—as our economy recovered from the Great Depression and prosperity returned to America—the system worked just as it was intended.

As a former banker, I can personally speak to the significance of the Glass-Steagall Act in helping to keep our financial system on an even keel. This important law was essential to the stability of our economy—right up to the moment when my Republican friends repealed it—a little more than a decade ago.

In 1999, the Republican Congress decided there was no longer a need to keep commercial and investment banks separate, so they passed a bill that rolled back key portions of the Glass-Steagall Act. Unfortunately, President Clinton signed it into law, and with the stroke of a pen, the walls between commercial banks and investment banks were torn down.

Almost overnight, commercial institutions started to move into this fresh territory. They started to underwrite CDOs and mortgage-backed securities. Then they began to trade them. Commercial lenders even created new investment vehicles, which bought these very same securities. Without the Glass-Steagall Act, it was a free-for-all.

As soon as the regulations were removed, big banks swooped in without regard to responsible lending practices. Conflicts of interest sprang up everywhere. Fraud was allegedly committed by some of our largest and most respected institutions. Then, 2 years ago, our economy went into a massive downward spiral—a great recession from which we are still trying to recover.

The repeal of Glass-Steagall certainly did not cause this financial crisis on its own. But many believe it was a contributing factor, and unless we can take action to close this regulatory gap, the absence of Glass-Steagall could expose our economy to major systemic risk in the future.

So, today, as the Senate stands on the verge of considering major financial reform, I would urge my colleagues to reinstate some of these protections. We must prevent big banks from engaging in these irresponsible practices ever again. That is why I am proud to support the Volcker rule, which my friend, Senator DODD, has included in his financial reform bill.

This provision will prevent traditional banks from making private equity investments. It will stop them from running hedge funds. It will help keep them from placing bets on the market. As a key part of Senator DODD's bill, the Volcker rule will essentially serve as a modernized version of the Glass-Steagall Act.

It would stop short of reinstating the old law of 1933, but it would help to prevent fraud, discourage conflicts of interest, and keep large banks from engaging in reckless behavior. It would also allow us to help regulate mergers among our biggest banks so we can prevent the market from becoming too concentrated or incurring systemic risk.

Mr. President, I believe each of these key components is a necessary part of any financial reform bill. That is why I am proud to join Senator DODD, as well as President Obama, in supporting the Volcker rule. Colleagues, let's learn from the events of history. Let's impose fair and reasonable regulations so a handful of banks would not be able to undermine the American economy with a few foolish decisions. Let's pass a financial reform bill that includes the Volcker rule.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURRIS). Without objection, it is so ordered.

(The remarks of Mr. FEINGOLD and Mr. LEAHY are printed in today's RECORD under "Morning Business.")

Mr. LEAHY. Madam President, today the Senate will finally confirm Professor Chris Schroeder to lead the Office of Legal Policy at the Department of Justice. I say "finally" because he was nominated by President Obama nearly 11 months ago. Professor Schroeder was first nominated to this position on June 4, 2009. He appeared before the Senate Judiciary Committee last June. He was reported favorably last July, a year ago, without dissent from both Republican and Democrat members on the committee. But then he sat on the Executive Calendar for 5 months, blocked by mysterious holds from the Republican side. Then, as the last session drew to a close, Republican Senators objected to carrying over Professor Schroeder's nomination into the new session, so it had to be sent back to the White House. The President had to renominate him. The President did that, to his credit. His nomination was reconsidered, reported favorably by the Judiciary Committee by a rollcall vote, with a majority of the Republicans voting for him. That was nearly three months ago.

Professor Schroeder is a scholar and public servant who has served with dis-

tinction on the staff of the Senate Judiciary Committee and in the Justice Department and has support across the political spectrum. The Judiciary Committee has received letters of support for Professor Schroeder's nomination from Arthur B. Culvahouse, Jr., former White House Counsel to President Ronald Reagan; Ken Starr, former Solicitor General under former President George H.W. Bush; 11 former high-ranking officials at the Justice Department; and Dean David F. Levi of Duke Law School, where Professor Schroeder has taught for many years.

Madam President, I ask unanimous consent to have those letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LETTERS OF SUPPORT FOR THE NOMINATION OF CHRISTOPHER SCHROEDER TO BE ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL POLICY

(As of April 21, 2009)

CURRENT AND FORMER PUBLIC OFFICIALS

Arthur B. Culvahouse, Jr., Former White House Counsel to President Reagan, 1987–1989.

Joint letter from former Department of Justice Officials [Eleanor D. Acheson, former Assistant Attorney General for the Office of Policy Development; Walter E. Dellinger III, former Assistant Attorney General for the Office of legal counsel, former Acting Solicitor General; Jamie S. Gorelick, former Deputy Attorney General; Randolph D. Moss, former Assistant Attorney General for the Office of Legal Counsel; Beth Nolan, former Deputy Assistant Attorney General for the Office of Legal Counsel; H. Jefferson Powell, former Deputy Assistant Attorney General for the Office of Legal Counsel, former Principal Deputy Solicitor General; Teresa Wynn Rosenborough, former Deputy Assistant Attorney General for the Office of Legal Counsel; Lois J. Schiffer, former Assistant Attorney General for the Environment and Natural Resources Division; Howard M. Shapiro, former General Counsel, Federal Bureau of Investigation; Richard L. Shiffrin, former Deputy Assistant Attorney General for the Office of Legal Counsel; Seth P. Waxman, former Solicitor General].

Kenneth Starr, Former Solicitor General, Duane and Kelly Roberts Dean and Professor of Law.

OTHER SUPPORTERS

David F. Levi, Dean, Duke Law School.

O'MELVENY & MYERS LLP

Washington, DC, July 14, 2009.

Hon. PATRICK J. LEAHY,

Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. JEFF SESSIONS,

Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND SENATOR SESSIONS: I write to endorse the nomination of Christopher H. Schroeder of North Carolina to serve as Assistant Attorney General for the Office of Legal Policy.

I am sure the Committee on the Judiciary is well aware of Chris Schroeder's substantial record of academic accomplishment as a chaired professor at Duke Law School and of his distinguished public service with the Department of Justice Office of Legal Counsel and with the Senate Judiciary Committee. Perhaps less well known is Chris Schroeder's part-time private practice association with our law firm, O'Melveny & Myers, from Jan-

uary 2002 to the present, the last four years in an "of counsel" position. As Chair of the Firm, I can attest Chris has provided exemplary legal services to the Firm and its clients, while working on highly complex legal matters. His capacity for keen analysis, his great maturity and judgment, and his ability to work in a constructive and purposeful way with others, have impressed both his colleagues and our clients.

Chris Schroeder's experience as counsel to our firm adds yet another dimension to his qualifications for office, making Chris one of the rare individuals who has excelled in academic law, in public service to both the legislative and executive branches of the national government, and in private practice. This diversity of experience and perspective will serve the Justice Department and the country well if Chris is confirmed as head of the Office of Legal Policy.

From my time as White House Counsel to President Reagan until now, I know how important it is to have senior Justice Department office holders who not only are first-rate lawyers, but also have the requisite maturity, experience and confidence to work constructively across institutional, interest group and party lines to advance the public interest. I believe that Chris Schroeder will be one of those leaders. I am pleased to endorse his nomination.

Yours very truly,

ARTHUR B. CULVAHOUSE, Jr.,

Chair.

JUNE 23, 2009.

Re Nomination of Christopher Schroeder to serve as Assistant Attorney General.

U.S. SENATE,
Committee on the Judiciary,
Washington, DC.

DEAR CHAIRMAN LEAHY, RANKING MEMBER SESSIONS, AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE: We are all former Department of Justice officials who worked closely with Chris Schroeder when he served as a Deputy Assistant Attorney General, and later Acting Assistant Attorney General, in the Office of Legal Counsel in the 1990s. Many of us have also known and worked with Chris in a variety of other settings. Based on our broad range of experiences, we all offer our enthusiastic support for Chris' nomination to serve as the Assistant Attorney General for the Office of Legal Policy.

Chris brings together a broad range of talents, experience and perspective that make him an ideal candidate to lead the Office of Legal Policy. First, Chris is a superb lawyer. He is a distinguished scholar, with an expertise in public law and policy. He has taught classes on constitutional and administrative law, on civil liberties and national security, and on the Congress. As acting head of the Office of Legal Counsel, he grappled with some of the most difficult legal issues in the executive branch and, in the course of doing so, earned the broad respect of others throughout the government.

Chris would also bring to the job extensive knowledge of the workings of the Department of Justice, and a deep respect for the Department as an institution. Equally importantly, Chris has worked extensively with other offices throughout the government, and he has a clear understanding of the interagency process. As a result, Chris would know how to ensure that Department of Justice policy judgments are fully informed by others in the executive branch.

Similarly, Chris also understands how the legislative process works. He would be well positioned to ensure that the Department's policy judgments are consistent with the laws Congress enacts and that they are informed by the judgment and experience of

those in the legislative branch. Chris served as chief counsel to the Senate Judiciary Committee, and he understands how important it is to work effectively with Members of Congress on both sides of the aisle in formulating effective public policy.

In addition, Chris would bring to the job the perspective of a lawyer who has engaged in the private practice of law. As a result, he would also understand how Department of Justice policy might affect the legal profession, and he has the experience to understand the practical implications of those policy decisions.

Finally, and most importantly, Chris is a balanced, fundamentally fair, and honest person. He has excellent judgment and a compelling sense of what is right. All of us have worked with Chris, and we can all affirm that he is a colleague of the highest order.

In short, Chris would bring to the job the perfect mix of experience: he is a distinguished scholar; he has worked in the Department of Justice, for the Congress, and in private practice; and he has the integrity and judgment the job demands. For all of these reasons, we believe that Chris is superbly well-qualified to serve as the Assistant Attorney General for the Office of Legal Policy.

Respectfully,

Eleanor D. Acheson (former Assistant Attorney General for the Office for Policy Development), Walter E. Dellinger III (former Assistant Attorney General for the Office of Legal Counsel; former Acting Solicitor General), Jamie S. Gorelick (former Deputy Attorney General), Randolph D. Moss (former Assistant Attorney General for the Office of Legal Counsel), Beth Nolan (former Deputy Assistant Attorney General for the Office of Legal Counsel), H. Jefferson Powell (former Deputy Assistant Attorney General for the Office of Legal Counsel; former Principal Deputy Solicitor General), Teresa Wynn Roseborough (former Deputy Assistant Attorney General for the Office of Legal Counsel), Lois J. Schiffer (former Assistant Attorney General for the Environment and Natural Resources Division), Howard M. Shapiro (former General Counsel, Federal Bureau of Investigation), Richard L. Shiffrin (former Deputy Assistant Attorney General for the Office of Legal Counsel), Seth P. Waxman (former Solicitor General).

SCHOOL OF LAW,
PEPPERDINE UNIVERSITY,
Malibu, CA, June 22, 2009.

Hon. PATRICK J. LEAHY,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

Hon. JEFF SESSIONS,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY AND SENATOR SESSIONS: It is my privilege to endorse, and heartily so, the nomination of Christopher Schroeder to be Assistant Attorney General for the Office of Legal Policy. Having known Chris for many years, I know him not only to be a distinguished professor at my beloved alma mater, but—as befits his fine reputation—I also know him to be a thoughtful and measured person. He has sound judgment. Indeed, Chris is quite well known, and again rightly so, for his balanced, careful writing.

Equally relevant, Chris served with great distinction in the Department of Justice in the highly important Office of Legal Counsel. He has thus been fully engaged in fashioning the advice and counsel that is foundational to our system of the rule of

law. Having also served in the Article I branch, Chris has a particularly keen and nuanced sense of what the Founding generation was seeking brilliantly to achieve: balanced government. From both practical experience and engaged scholarship, he understands, deeply, the appropriate role of the co-ordinate branches.

In short, based on both his personal character and professional qualifications, I enthusiastically recommend him to you for confirmation to this very important role at the Justice Department.

Yours sincerely,

KENNETH W. STARR,
Duane and Kelly Rob-
erts Dean and Pro-
fessor of Law.

DUKE UNIVERSITY SCHOOL OF LAW,
Durham, NC, June 19, 2009.

Hon. PATRICK J. LEAHY,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

Hon. JEFF SESSIONS,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY AND SENATOR SESSIONS: I am the Dean of Duke Law School. Previously I was U.S. Attorney in the Eastern District of California (1986-1990) and then a United States District Judge in the same district (1990-2007). I am writing in my personal capacity to endorse the nomination of Christopher Schroeder to be Assistant Attorney General for the Office of Legal Policy.

Professor Schroeder is currently a distinguished member of the Duke Law School faculty, and the Charles S. Murphy Professor of Law. His scholarship is well recognized across a range of subject areas, including constitutional law, administrative, and environmental law. He is the author of dozens of articles and books in these fields, and has the reputation of a fair, thoughtful teacher who respects all points of view.

Professor Schroeder also directs Duke Law School's Program in Public Law. This Program in Public Law exposes law students to the opportunities and value of public service as part of their professional careers, through speaker series, workshops, conferences and other programs. The Program engages topics that are newsworthy and often controversial, in order to provide students an informed basis for evaluating the public debate about them. I have participated in a number of events sponsored by the Program and have been impressed both with the quality of Professor Schroeder's own contributions, and with the even-handedness of points of view that he consistently brings to the programming. His leadership of this program demonstrates, again, a balanced, fair-minded person who respects, and is respected by, people from many different backgrounds and perspectives. Professor Schroeder is not an ideologue.

Professor Schroeder also has considerable government experience both in the Department of Justice and in the United States Senate. In the Department of Justice, he has served in the Office of Legal Counsel, including as its Acting Assistant Attorney General. Through that experience he has gained knowledge of the organization and operation of the Department, as well as of many of the policy issues that regularly face the Department of Justice. His prior work at Justice provides valuable preparation for the leadership position to which he has been nominated. In the United States Senate, he has served as Chief Counsel to the Senate Judiciary Committee and in several other capacities as well. I know from my conversations with him that he appreciates the responsibilities of the Senate and the Congress, and possesses a genuine respect for the role of

the legislative branch in our constitutional system. This orientation, too, will be an asset in leading the Office of Legal Policy, which often works closely with members of Congress in developing policy initiatives.

Professor Schroeder possesses the intellect, skill, training, reliability, and disposition to make him an effective and dynamic director of the Office of Legal Policy. He is someone in whom the members of the Senate and the American people can be confident. He has distinguished himself in every endeavor that he has undertaken. I am certain that he will do so as the AAG for the Office of Legal Policy. I highly recommend him for this position.

Sincerely,

DAVID F. LEVI.

Mr. LEAHY. Madam President, Chris Schroeder is well known to many of us in the Senate. He has served in a number of positions, including chief counsel for the Judiciary Committee when the chairman was then-Senator JOE BIDEN. He spent years in private practice and as a professor, including for the last 10 years as director for the Program in Public Law at Duke University Law School. He has also served in a number of high-ranking positions at the Justice Department making him extraordinarily well prepared for the position to which he has been nominated. In fact, in my nearly 36 years here, it is hard to think of somebody more well qualified.

Look what he has done. He graduated from Princeton University, received his master of divinity from Yale Divinity School before earning his law degree from the University of California at Berkeley Boalt Hall in 1974. There is no question that he is well qualified to run the Office of Legal Policy.

For somebody who is going to be confirmed easily, it shouldn't be necessary for the majority leader to have to file cloture in order to end the Republican filibuster. The Senate should be able to at least have an up-or-down vote on Professor Schroeder's nomination. What has this place come to when we have filibusters on routine nominations such as this?

I remember, when I first came here, probably the biggest nomination we had before a heavily Democratic-controlled Senate was a nomination by a conservative Republican President, Gerald Ford, for the U.S. Supreme Court. President Ford nominated a well respected Republican from Chicago seen as a conservative; John Paul Stevens. We took that nomination from the Republican President 2½ weeks after that nomination arrived here. We all voted for John Paul Stevens to be confirmed for the Supreme Court, including myself. In fact, I am one of only three Senators still here who voted, with Senator INOUE and Senator BYRD being the other two.

What have we come to when we have a nominee who is as extraordinarily well qualified as Professor Schroeder, who is going to be confirmed, but he has to get past a Republican filibuster.

The 11 months it has taken us to consider this nomination is a far cry, incidentally, from the way the Democrats

treated President Bush's nomination to run the Office of Legal Policy. A Democratic majority confirmed President Bush's first nominee to head that division, Viet Dinh, by a vote of 96 to 1 only 1 month after he was nominated and only 1 week after his nomination was reported by the committee. The 3 nominees of that office who succeeded Mr. Dinh—Daniel Bryant, Rachel Brand, and Elisabeth Cook—were each confirmed by a voice vote in a far shorter time than Professor Schroeder's nomination has been pending. None of these nominations were returned to the President without explanation. None of them required cloture to be filed before being considered.

What is going on when a Republican President is treated with fairness but a Democratic President, President Obama, is treated this way? It makes me think of what one of the leaders of the Republican Party said last year: I want this President to fail. If you have an objection to a nomination, vote against it, but none of us should want the President of the United States to fail because if the President fails, America fails and we all suffer, Republicans and Democrats alike. We have to get out of this mindset that if President Obama is for something, everybody has to find ways to block it.

I agree with Senator FRANKEN's observation on the Senate floor earlier this week concerning the Schroeder nomination. He remarked that perhaps Republicans were blocking this nomination because Professor Schroeder has been nominated to lead the office that vets potential judicial nominees. Well, he is right, as is Senator KAUFMAN, who has spoken so eloquently on behalf of Professor Schroeder today.

To deflect criticism for Republican delays and obstruction of judicial nominations that have left 25 judicial nominations languishing on the Executive Calendar, Senate Republicans have tried to place the blame on the administration for sending too few nominees to the Senate. But these same Republicans have held up Professor Schroeder's nomination to lead the division of the Justice Department involved with reviewing and preparing judicial nominations for nearly a year. In other words, they stopped the person who is supposed to do the initial review on judicial nominations and then said: Oh, my goodness, President Obama is not sending up enough nominations. Come on. Come on. This is like a burglar saying: I should be excused for burglarizing this warehouse because you had such nice things in the warehouse to steal. It is your fault for having nice things to steal. How can you blame me for stealing them? What they are saying is: It is President Obama's fault for not moving through judges who have to be vetted by somebody we are blocking from vetting them.

I know the Department and the administration would be grateful to have Professor Schroeder help them prepare judicial nominations. He has shown

that he has a deep understanding of the proper role of a judge tasked with interpreting the Constitution. As he emphasized in a response to a question from Senator SESSIONS:

Any interpretation of the Constitution must begin with the document's text, history, structure, and purpose, as well as judicial precedent . . . [A] fundamental qualification for anyone being considered for a judicial appointment is that he or she understand the Constitution has binding force that must be applied faithfully in cases that come before any court, independent of his or her own policy or preferences.

So, again, I thank Senator KAUFMAN. He is one of the most valued members of the Judiciary Committee and somebody I am going to miss sorely when he retires this year. I thank him for his dogged efforts in support of Professor Schroeder's nomination and for his assistance in managing the debate so well today.

I congratulate Professor Schroeder and his family on his confirmation. I have every confidence he will be an effective and devoted public servant.

I might note—I see the distinguished Senator from North Carolina, who is presiding over the Senate today. Among the 25 judicial nominees stalled before a final Senate vote, there were two courts of appeal nominees for North Carolina. I know the distinguished Presiding Officer took a totally nonpartisan attitude toward recommending these judges and has worked extraordinarily hard, and I hope Judge Wynn and Judge Diaz will soon be allowed by Senate Republicans to be considered and voted on. They are supported by both the distinguished Presiding Officer, Senator HAGAN, and the other distinguished Senator from North Carolina, Senator BURR. So they are supported by a Democrat and a Republican.

Incidentally, Judge Wynn was reported out of the committee 18 to 1. Most of us would love to win elections by that kind of a margin. Judge Diaz was reported unanimously 3 months ago.

So let's stop this unprecedented kind of stalling and clear these 25 judicial nominees.

I see nobody else seeking recognition.

Madam President, I ask unanimous consent that at 2:15 p.m. today, the Senate proceed to vote on confirmation of the nomination of Christopher Schroeder, with the time until then equally divided and controlled as previously ordered; further, that any other provisions of the previous order with respect to the nomination remain in effect.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. LEAHY. Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEMIEUX. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEMIEUX. I ask to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Florida is recognized.

FINANCIAL REGULATORY REFORM

Mr. LEMIEUX. Madam President, I come to the floor of the Senate today to talk about the issue of financial regulatory reform, an issue that is consuming the good efforts and time of many of our colleagues in the Senate. It is an issue that is very important to the future economic health and viability of this country.

As we go about our lives, even in this difficult economy, I think it is easy to forget how bad things were just a couple of years ago, how bad things were in the fall of 2008. It is important for us to remember the situation that we were put in, where our stock market fell precipitously, where our financial institutions were on the verge of collapse, where the Congress was forced to step in to give billions of dollars of taxpayer money to save the financial institutions, to avoid what was perceived at the time to be a situation as dire as that which happened in the late 1920s when the Great Depression started.

It is important for us to remember that terrible, challenging time as we evaluate what we should do now to prevent that time from happening again. We should be looking back to the causes of that crisis in order to figure out the solutions we should impose today.

There has been good work done among Members of both sides of the aisle. Senators DODD, SHELBY, CORKER, and others on the Banking and Finance Committee have been working overtime to come forward with a piece of legislation that will help put us in a situation where we will no longer have companies too big to fail which could have us going back to the American taxpayer to bail out Wall Street to save our financial institutions. We should never be put in that position again, so I commend the work that is being done. I am hopeful we will have a bipartisan product.

There are pieces of this legislation as it is currently constructed which give me concern; that they would cause a bailout to again be a situation that the Congress has to address gives me great concern. There is particular legislation as part of this package which would set up a fund of \$50 billion with certain companies designated as too big to fail. I think that is a wrong strategy. I think, therefore, we are guaranteeing future bailouts. We are saying to these companies: You are too big to fail. The Federal Government is giving you its stamp of approval. We will come in and rescue you with taxpayer dollars—or shareholder dollars, for that case.

I think that creates the wrong incentive. I think it promotes risky behavior

and at the same time creates an unfair playing field for those institutions which have played by the rules, which have had sound financial management. We should not forget in this debate and discussion that the way business is supposed to work in this country is you put together a venture to sell a product or a service. If you succeed, you have a profit. If you fail, you go out of business. The failures of the American economic system are in many ways just as important as the successes.

Where would we be if technologies that proved to be failures were subsidized and preventing better technologies from coming forward? That doesn't make any sense for consumers. It doesn't make any sense for the American way of life. We need to make sure businesses can fail if they do not succeed.

We have a system of bankruptcy in this country that is admired around the world that, in an orderly way, takes companies into its procedures and either reorganizes them or liquidates them. That should be the way the process works. We do not want to continue to support bad businesses with bad practices and bad ideas. We want the good businesses to succeed, and we certainly do not want to create a playing field where the businesses that run the right way are at a disadvantage. So I have problems with that portion of the bill.

There are other portions of the bill with which I have trouble. Certainly, we should not be in a situation of more taxpayer bailouts or even shareholder bailouts.

I wish to talk today about the causes of the prior crisis and what this bill needs to do to make sure that crisis does not happen again. If we go back to 2007–2008, we can see in hindsight what led to this financial meltdown. In a State such as mine, Florida, we have been particularly impacted by the meltdown that occurred because the basis of this meltdown was residential property and the mortgages that went along with that property.

In a State such as mine, in Florida, we have been very fortunate over the past 30 years or so because as we have had slowdowns in our real estate economy—which is a main driver of the economy in Florida, construction of real estate—other parts of the market have been able to step in and succeed when real estate construction fell back. Never before, until this most recent crisis, was the financial market wedded with the real estate market.

Let's look back at the circumstances that occurred. Sometime during the early 2000s, a process started whereby banks and lending institutions would give mortgages to people who did not have the ability, in all honesty, to afford the home they were purchasing. There was a type of loan in Florida, and I am sure in other parts of the country, called the Ninja loan—no income, no job. Why would any lending institution give you a loan if you were

not creditworthy in order to obtain that loan.

I had the opportunity to purchase my first home back in 1995. When I did, I could only put down 15 percent. My bank required me to get mortgage insurance in order to make it to the 20 percent deposit requirement. That was the way it was in this country. There was a time when you tried to obtain a mortgage where the bank was very vested in you being able to pay because they were holding the note.

Sometime in the early 2000s, the process started whereby mortgage brokers and banks could sell off your mortgage into the marketplace because we started to securitize mortgages, make mortgages trading instruments. When that happened and when now the mortgage broker or the bank that generates a fee from the writing of the mortgage of itself can take that mortgage and send it off, sell it off to somebody else, we created a bad incentive.

The bad incentive was, I don't care about the creditworthiness of the person to whom I am loaning the money because I no longer have to hold the mortgage. So the creation of these instruments, these securitized instruments to trade mortgages created that bad incentive, and all of a sudden mortgages were being written to people who otherwise did not have the credit and didn't have the likelihood of repaying them.

What did that do? Easier money meant prices became inflated. Most folks in Florida and all around this country did not look at the price of the home they were purchasing, they looked at their monthly payment. Interest rates were extremely low, money was easy to get, a downpayment was no longer a requirement. This helped the building business, the home construction business to take off—more homes, more mortgages.

The financial markets on Wall Street found that putting together these mortgage-backed securities, these large trading instruments with thousands, tens of thousands of mortgages, was very profitable for them. They could trade these back and forth and they, too, could receive a commission on the sale of these products. That made them money. Guess what. They were not responsible if they went under either.

In order for all of this to work, someone had to vouch for the worthiness of these large mortgage-backed securities, these trading instruments of mortgages. Wall Street looked, as it always has looked, to these rating agencies such as S&P, Moody's, Fitch—and guess what. They came along and allegedly looked at these products and stamped them as being AAA, the highest level of creditworthiness, very unlikely to have any problems with them where the person who purchased some kind of instrument on them would not get paid let alone lose their investment.

The challenge was that the rating agencies did not understand the mortgages that were in these products. They didn't do the due diligence, and we protect them by Federal law from any recourse. They didn't have any skin in the game either.

So now we have the borrower with no skin in the game because they didn't have to put anything down on their house—they are basically renting. We have the bank and mortgage broker with no skin in the game because they don't have to hold the mortgage on their books. We have the financial firms with no skin in the game because they are just trading these large securitized instruments, and worse still they create what they call synthetic agreements where you do not have to hold any of these mortgages yourself. You are just creating sort of a shadow trading instrument that trades off of the same underlying mortgage when, in fact, it doesn't hold them. It is like me betting that your house will burn down without me having an interest in your house.

We created this long chain of people in the marketplace, from the borrower to the mortgage broker bank to the financial institution to the rating agency, who had no skin in the game on these transactions. The sale of these market-backed securities, and later the credit default swaps which was the insurance policies against them, created huge fees for the financial firms.

We did, for the first time in this history, something we had never done before. We put the prime asset of most Americans—their home—in play on Wall Street. Year after year the demand for these mortgages drove the excess. More and more, poorer and poorer mortgages went to feed the beast on Wall Street. At the end of the day, the housing market couldn't sustain itself, and when the mortgages started to fail, when people started to not be able to make their payments, when the increase in property prices could not increase any more because gravity affects everything after a while, the whole system in 2007 and then 2008 began to fall apart, and we found out that companies such as AIG were all entangled in buying and selling insurance products on these products; that they had huge exposures, that Wall Street banks had \$5, \$10, \$15 billion or more in exposure and some of the biggest institutions that we know from Wall Street failed—at first bought up by other companies and then ultimately bailed out by you, the taxpayer. I go through this history and explain it in the best way I know how. It is a very complicated topic, because what we do in this reform bill has to address the skin-in-the-game problem. So to my friends, Senator DODD, Senator SHELBY, Senator CORKER, Senator WARNER, and others, who are in the midst of negotiating the bill that will come to this floor, I have made three suggestions as to what we need to do to make sure we do not replicate this problem again.

First, these rating agencies, which are captive to the investment banks whose products they rate, can no longer be held harmless to not do the due diligence required and stamp AAA on products they do not investigate and do not understand. But for these rating agencies, this crisis probably would not have happened. But for them, but for the imprimatur of their AAA stamp, people would not have slept well at night buying a product they did not understand. It is like Consumer Reports. Consumer Reports says, this is a great car. It is safe. You as a consumer do not understand the modern workings of a car with all of its computer technology, but you buy Consumer Reports, and you read it. It tells you this is the safest car in America, so you feel safe putting your wife and your kids in that car.

But you did not know under this circumstance that the very rating agencies that were rating these products, one, were not doing any due diligence, and, two, were being paid by the investment banks whose products they were rating. That has got to change.

Suggestion No. 2. In terms of residential mortgage underwriting, if a broker or bank is going to write some exotic-type mortgage where there is little to nothing down, then they should be required to maintain a portion of those mortgages on their books. Let them bear the risk. Do not let the bank shift it off so it can become securitized in the marketplace, entangle all of our financial institutions, and put us, the taxpayer, at risk. If we make those banks hold some of these nontraditional mortgages, I guarantee you they will do a better job of making sure the people they are lending money to are good creditworthy investments for them.

The third suggestion is this: The issuers of securitization, including these synthetic—which basically means manufactured, not real—collateralized debt obligations also should be required to retain a substantial stake of the instruments they market. They have to have skin in the game as well, so that if these instruments fail, they are going to lose money.

We have got to understand, not only in this discussion but throughout the problems we address, the incentives we are creating. We cannot have a financial market system whereby there is no exposure to me in any part of the equation, because that is going to encourage bad behavior. It is the same reason why we got it wrong on health care reform. Because as long as we have third-party payers, Medicare and Medicaid insurance companies, we, the consumers, have little interest in the cost we are paying. Therefore, costs do not go down.

It is the same brewing problem we are going to have when a recent statistic says that 47 percent of Americans do not pay taxes. If 47 percent of Americans do not pay taxes, do they

actually care if the U.S. Government does a good job of spending money effectively and efficiently? The incentive is for them not to care, because it is not their money.

We have got to address this issue today in the financial markets, and tomorrow in all of the legislation we pass.

Americans, banks, consumers, in all forms, whether we are buying health care services or financial products, whether we are buying a home or trading on Wall Street, we have to have skin in the game, or we create bad incentives that harm our country.

With that, I conclude my remarks and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWN of Ohio. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent to speak for up to 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DERIVATIVES

Mr. BROWN of Ohio. I know the Democrats are a bit shorter than that in time. If a Republican comes, I will yield the floor more quickly if they ask.

I only have a couple of things I want to say. I just came earlier from the Agriculture Committee meeting where we passed legislation, bipartisanship, to regulate derivatives. It was a major step in financial reform. The discussion was vigorous, the discussion was not contentious, but there was a good bit of disagreement. But in the end, the committee voted bipartisanship for stronger derivative legislation. It will provide financial stability by requiring banks to put capital behind their trades. It will use transparency and accountability to prevent Wall Street banks from taking advantage of their business customers. It will reduce speculation that fuels bubbles in markets such as natural gas and mortgages.

We understand derivatives can be used responsibly by businesses to hedge commercial risk. But commercial businesses make up a relatively small part of the derivatives business. It used to make up a much larger part. A lot of the synthetics, CDOs, and other derivatives have become way more commonplace and, parenthetically but importantly, put us in the position that we are in as a nation in our economy.

I commend Senator LINCOLN for her advocacy and leadership in voting out a strong derivatives regulation. The reason this is so important is we know what happened because of Wall Street excess. What happened is some homeowners in Bryan, OH, lost their homes. We know that retirees in Ravenna, OH,

lost a good bit of their wealth. We know that workers in Dayton, OH, lost their jobs. That is repeated in Charlotte, and Raleigh, and Asheville, NC. It is true in Marietta and Cleveland and Bedford, OH, that because of Wall Street excesses, too many people lost their homes, lost their wealth, lost their retirement, lost their jobs.

This legislation today, coupled with Senator DODD's legislation coming out of Banking, was bipartisanship passed. It will move us in the right direction. It was bipartisan but not a compromise of Wall Street. When bipartisanship means bring Wall Street to the table to write the legislation, that is not what the American people want. What bipartisanship means is that our committee writes strong language and Republicans and Democrats, at least one Republican and Democrats, come together. That is what we ought to do. That is the direction we should go. That is what responsible governing is all about.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nomination of Christopher H. Schroeder, of North Carolina, to be an Assistant Attorney General?

Mr. BARRASSO. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Utah (Mr. BENNETT), and the Senator from Nebraska (Mr. JOHANNES).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 24, as follows:

[Rollcall Vote No. 121 Ex.]

YEAS—72

Akaka	Cardin	Franken
Baucus	Carper	Gillibrand
Bayh	Casey	Graham
Begich	Collins	Grassley
Bennet	Conrad	Hagan
Bingaman	Corker	Harkin
Boxer	Dodd	Hatch
Brown (MA)	Dorgan	Inouye
Brown (OH)	Durbin	Johnson
Burris	Feingold	Kaufman
Cantwell	Feinstein	Kerry

Klobuchar	Merkley	Shaheen
Kohl	Mikulski	Shelby
Kyl	Murkowski	Snowe
Landrieu	Murray	Specter
Lautenberg	Nelson (NE)	Stabenow
Leahy	Nelson (FL)	Tester
LeMieux	Pryor	Udall (CO)
Levin	Reed	Udall (NM)
Lieberman	Reid	Voynovich
Lincoln	Rockefeller	Warner
Lugar	Sanders	Webb
McCaskill	Schumer	Whitehouse
Menendez	Sessions	Wyden

NAYS—24

Barrasso	Cornyn	Isakson
Bond	Crapo	McCain
Brownback	DeMint	McConnell
Bunning	Ensign	Risch
Burr	Enzi	Roberts
Chambliss	Gregg	Thune
Coburn	Hutchison	Vitter
Cochran	Inhofe	Wicker

NOT VOTING—4

Alexander	Byrd
Bennett	Johanns

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. Under the previous order, a motion to consider is considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

THOMAS I. VANASKIE TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT

The ACTING PRESIDENT pro tempore. The clerk will report the next nomination.

The legislative clerk read the nomination of Thomas I. Vanaskie, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 3 hours of debate on this nomination. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, the Senate just devoted more than 3 hours to the nomination of Chris Schroeder. I am glad that after many months the Senate has finally been allowed to act on that nomination and gratified that he received a bipartisan confirmation vote. After months of delay no Republican came to the Senate to speak in opposition to the nomination in the 3 hours that Republicans insisted be set aside to debate it. Senator KAUFMAN spoke in favor; I spoke in favor. Not a single opponent came to debate. That wasted more of the Senate's time when we should be considering other matters. We could be debating Wall Street reform, patent reform, or clearing the way for some of the other 100 Presidential nominations being stalled. We should have been.

With respect to the President's judicial nominees, we are well behind the pace I set as chairman when the Senate was considering President Bush's nominees during the second year of his Presidency. By this date in President Bush's second year, the Senate, with a Democratic majority, had moved ahead to confirm 45 of his Federal circuit and district court judges. So far during President Obama's Presidency, Senate

Republicans have only allowed votes on 18 of his Federal circuit and district court nominations. During the first 2 years of President Bush's Presidency we moved forward to confirm 100 of his judicial nominees. Republican obstruction of President Obama's nominations makes it unlikely that the Senate will reach 50 such confirmations. Last year they allowed only 12 Federal circuit and district court nominees to be confirmed, the lowest number in more than 50 years.

Today, thanks to the perseverance of the majority leader and the Senators from Pennsylvania, we will consider and I hope confirm the 19th of President Obama's Federal circuit and district court nominees, Judge Thomas Vanaskie. It has been more than 4 months since Judge Thomas Vanaskie's nomination to fill a judicial emergency on the U.S. Court of Appeals for the Third Circuit was reported favorably by the Judiciary Committee with strong bipartisan support. His nomination has the support of both of his home State Senators, Senator SPECTER and Senator CASEY. He has more than 15 years of Federal judicial experience having served as a district court judge in Pennsylvania since 1994. The American Bar Association Standing Committee on the Federal Judiciary has unanimously rated him well qualified to serve as a circuit judge on third circuit. His nomination is not controversial. Yet, it has taken months to get consent from the other side for an up-or-down vote on Judge Vanaskie's nomination and that did not occur until the majority leader was forced to file cloture to end the stalling. Judge Vanaskie is one of the 25 judicial nominees still being stalled from final Senate consideration.

I appreciate the significant steps taken by the majority leader to address the crisis created by Senate Republican obstruction of the Senate's advice and consent responsibilities. Their refusal to promptly consider even the most noncontroversial nominations is a dramatic departure from the Senate's traditional practice of prompt and routine consideration of noncontroversial nominees. The majority leader's decision to file cloture was an unfortunate but necessary step, resulting from Senate Republicans' refusal month after month to join agreements to consider, debate and vote on this nomination. Those practices have obstructed Senate action and led to the backlog of almost 100 nominations pending before the Senate, awaiting final action. These are all nominations favorably reported by the committees of jurisdiction. Most are nominations that were reported without opposition or with a small minority of negative votes. Regrettably, this has been an ongoing Republican strategy and practice during President Obama's Presidency.

The vote on the confirmation of Judge Vanaskie's nomination is the first vote on judicial nominations that

the Senate will hold in 5 weeks. Despite the dozens of judicial nominations ready for Senate consideration, none has been allowed to move forward for over a month to fill longstanding vacancies in the Federal courts. Of the 25 pending judicial nominations, 18 were reported from the Senate Judiciary Committee without any Republican Senator voting against. I have been urging the Senate Republican leadership for months to allow votes on these noncontroversial nominations and to enter into time agreements to debate the others. We need to clear the backlog of nominations and move forward.

I am pleased that the Senate tomorrow will consider another judicial nomination, that of Judge Denny Chin to the Second Circuit Court of Appeals. His nomination was reported by the Judiciary Committee unanimously, but it has also been stalled from Senate consideration for more than 4 months. Senate Republicans should lift their secret holds and also allow votes on the remaining 23 judicial nominations currently pending final action by the Senate. If we are allowed to act on the judicial nominations reported favorably by the Senate Judiciary Committee but on which Senate Republicans are preventing Senate action, we will more than double the number of judicial nominations confirmed by the Senate this Congress, and bring the number of confirmations in line with the number we confirmed at this point during President Bush's first two years in office.

Judicial vacancies have skyrocketed to over 100, more than 40 of which have been designated "judicial emergencies." Caseloads and backlogs continue to grow while vacancies are left open longer and longer. On this date in President Bush's first term, not only had the Senate confirmed 45 Federal district and circuit court judges but there were just seven judicial nominations on the calendar. All seven were confirmed within 9 days. By the end of this month, which is nine days from now, we should clear the backlog that Republican obstruction has created and vote on the judicial nominations stalled on the Senate Executive Calendar.

By this date during President Bush's first term, circuit court nominations had waited less than a week, on average, before being voted on and confirmed. By contrast, currently stalled by Senate Republicans are circuit court nominees reported by the Judiciary Committee 5 months ago, in November of last year. The seven circuit court nominees the Senate has been allowed to consider so far have waited an average of 124 days after being reported before being allowed to be considered and confirmed.

Judge Vanaskie was born and raised in Shamokin, PA. He is one of seven children raised by two working parents. He graduated magna cum laude from Lycoming College in 1975 and cum